

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

Dated this the 8th day of June, 1998

BEFORE

THE HON'BLE MR. JUSTICE V.P. MOHAN KUMAR

WRIT PETITION NO. 37943 OF 1997

BETWEEN :

M/s. MSK Mills, Gulbarga
a Unit of M/s. National Textiles
Corporation (APKK&M) Limited,
Bangalore,
Represented by its Company
Secretary Sri. P.R. Kandaswamy

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.. PETITIONER

(M/s. Bangalore Law Associates,
Advocates for petitioner)

A N D :

1. M/s MSK Mills
Lalbavuta Workers Union
10-718, Shastri Chowk
Brahmapura, GULBARGA
2. The Commissioner of Labour
V.I.S.L. Buildings
J.C. Road, BANGALORE
3. The Presiding Officer,
Labour Court, GULBARGA

.. RESPONDENTS

(Sri R.S. Sidhapurker for R - 1
Sri C. Ramakrishna, H.C.G.P. for R - 2 & 3)

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Writ Petition filed under Article 226 & 227 of the Constitution of India, praying to; issue a writ of Certiorari or any other order quashing the order of the Respondent No. 3 the same being the Award passed by the third Respondent in reference No. 22/1987 dated 11.12.1996 at Annexure - 'B'; To declare that the acceptance of the Award by the second Respondent as illegal and without application of mind, etc.

This Writ Petition coming on for Preliminary hearing in "B" Group, this day, the Court made the following :

O_R_D_E_R

There is no appearance on behalf of the petitioner.

2. The petitioner-employer challenges Annexure - B award made by the Labour Court in a Reference in Ref. No. 22/87. The question involved in the dispute raised by the 1st respondent-Union is for regularisation of 22 workmen employed in the Mill working in Civil Engineering Section and General Section. It is alleged by the Union that these workers are working over 10 years continuously and their services have not been

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been regularised. It is also alleged by the Union that persons similarly placed and who are working have been regularised. The reasons were highlighted as well.

3. The Management denied the claim and refuted the allegation that the workers have put in more than 240 days of service. It is also contended that the workers are not entitled to regularisation.

4. On behalf of the Management, MWs - 1 and 2 were examined. The workers got examined WW-1 to substantiate their contention. They also marked 22 documents to support their claim. After hearing the respective sides, the Labour Court upheld the claim of the Union for regularisation of the workmen except workmen Nos. 1, 13, 18, 19 and 21. This order is challenged by the petitioner-employer in these proceedings.

5. It is seen from the evidence adduced that the

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the persons who have spoken regarding the denial of the claim of workers, have absolutely no knowledge of the institution. They are not familiar with the institution itself. The Labour Court has adverted to the evidence of MW - 1 and the admission made by him that he is working in the Civil Section and does not know the division ~~where the workmen work~~. Likewise, MW - 2, who was examined, is also not familiar with the case pleaded by the Management. On the contrary, the workers examine WW-1 and who has clearly deposed stating that all the workers have been working and have put in more than 240 days of service in the Mill. The documents produced were proved by his evidence as well. There is nothing to show that this evidence of WW - 1 should have been rejected in preference to the evidence of MWs- 1 and 2. It is seen from the award of the Labour Court that MW-1 examined on behalf of the Management is not competent to give evidence in view of Rule 7 (a) of the Factories Rules which provides that Welfare Officers cannot adduce

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adduce evidence or examine himself on behalf of the Management. Thus, the Management has not taken any steps to establish the claim except the pleading in the case. In the light of these circumstances, the Labour Court was left with no other course except to accept the case of the workers. The award passed by the Labour Court does not call for interference. The writ petition is accordingly dismissed.

Sd/-
JUDGE



Pkc/Hrp